



PUBLIC DISCLOSURE COMMISSION

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TO: Members, Public Disclosure Commission

FROM: Doug Ellis
Director of Public Outreach

DATE: August 21, 2002

SUBJECT: Continuation of Rule-Making Process

On August 14, 2002 PDC staff conducted a stakeholder meeting on possible agency rules. Invitations to attend the meeting were sent to 98 individual stakeholders representing private industry, government and political organizations. The meeting was intended to seek public comment on potential rule making topics and give all interested persons an opportunity to participate in the process.

Twelve individuals representing eleven organizations attended the August 14th meeting. The following is a list of participants.

Darrell Chapman	International Brotherhood of Electrical Workers
Don Briscoe	International Federation of Professional Technical Engineers
Barbara Mertins	Washington Association of School Administrators
Aimee Iverson	Washington Education Association/WEA-PAC
Jim Oswald	Washington State Labor Council
Dick Burton	Washington Federation of Teachers
Nancee Wildermuth	Attorney at Law
Eric Wordlof	Public School Employees of Washington
Kim Peery	Public School Employees of Washington
Tom Harris	Sheet Metal Local 66
Doug Henderson	Teamsters Joint Council
Justin Gruenstein	Senate Democratic Campaign Committee

The draft rules included in this packet were developed after stakeholder input. At this point in the process, the Commission selects the language to be included in what will become actual proposed rules. If more discussion or revision is necessary, the draft rules can be brought back for consideration at a future meeting.

Amend WAC 390-17-100 Contribution withholding authorizations. Engrossed Senate Bill 6713 removed the requirement to annually renew a request for payroll deduction of wages or salaries for contributions to political committees or for use as political contributions. Draft amendments to this rule are designed to comply with statutory changes to RCW 42.17.680.

Aside from deleting reference to the 12-month validation and eliminating dated language, the input from stakeholders on possible changes to this rule revolved around developing language that would permit a single withholding authorization form to meet both the state and federal requirements. Discussion centered on how the non-discriminatory provisions of RCW 42.17.680(2) would be applied in the contribution withholding authorizations to employees from whom wages or salary are withheld.

Staff has provided two draft versions of the rule for Commission consideration.

Staff Amendment A incorporates standard changes such as the elimination of the annual reauthorization requirement and outdated language, but keeps the current rule language of RCW 42.17.680(2) regarding notification of an employee from whom wages or salary are withheld.

Staff Amendment B has the same standard changes as Amendment A but provides the option of using the exact statutory language under RCW 42.17.680(2) or a statement that informs the employee of the prohibition against employer and labor organization discrimination as described in the statute.

See attached draft amendments A and B.

New rule WAC 390-17-150 Employee Notification of Withholding Provisions.

Chapter 156, Laws of 2002 requires annual notification of employees from whom wages or salary are withheld. This annual notification must include the non-discriminatory provision of RCW 42.17.680(2) and a notification about the right to revoke the authorization for payroll deductions at any time.

The draft new rule would clarify who sends the notification to employees, who would have access to the notification information, retention of records and consequences of failing to notify.

Stakeholder discussion centered on the method to be used to notify employees of the provisions in RCW 42.17.680 and who would have access to annual notifications. Stakeholders were divided. Many representatives at the August 14th meeting indicated that annual notification should be delivered through an existing publication such as a newsletter. Other stakeholders felt it was important to provide the notification as a separate document and not have it combined with other information.

Access to the annual notification, size and location of the notification (if incorporated in an existing publication), and possible sanctions for failure to comply were also topics of discussion.

The two draft versions of this rule incorporate a number of concepts for Commission consideration:

- Should any notification require the exact language of RCW 42.17.680(2);
- Should the public have access to the notification;
- Should withholding authorizations be suspended if the receiving entity fails to provide annual notification to employees; and,
- Should the notification be a stand-alone document or part of a general mailing and, if the later is deemed appropriate, should the rule require notification size and location within the general mailing document.

See draft X and Y of new rule WAC 390-17-150.

Amend WAC 390-16-234 Transfers of Surplus Funds. Legislative changes to RCW 42.17.095 in 1995 allowed candidates to transfer surplus funds without limit to a political party or to a caucus political committee. This rule was initially designed to clarify the disposal of surplus funds when specific limits were in place for transfers to political parties or caucus committees. The draft amendments would clarify that the proportional reimbursement of joint campaign expenses is not considered a transfer of active or surplus campaign funds. The draft rule amendment also clarifies RCW 42.17.095(3) and (8). See attached draft amendment.

Amend WAC 390-17-200 Major political party organizations. Minor changes to this rule are designed to clarify that a major political party must notify the Commission in writing once it has designated the official party county central committee and the official party legislative district committee. See attached draft amendment.

Amend WAC 390-37-030 Enforcement procedures – Status of citizen complainant and others. The current rule allows a complainant or any other person to submit evidence and statements to the Commission at any time during an enforcement process, up to and including the hearing. The rule also indicates that the Commission may grant the complainant or any other person an opportunity to be heard in a compliance matter at a public hearing.

Under the draft amendments to this rule a complainant would have an opportunity to submit additional evidence up to seven calendar days before an enforcement hearing or other proceeding. However, neither the complainant nor any other person would have an opportunity to be heard at the quasi-judicial enforcement hearing unless they are called as a witness by one of the parties.

Stakeholders in general supported a complainant's right to be heard at an enforcement hearing, but did not oppose prohibiting audience participation in such proceedings. The consensus was that prohibiting a complainant's testimony may preclude some important information that should be considered by the Commission.

The draft amendment is consistent with the state's Administrative Procedures Act and rules adopted by the Executive Ethics and Legislative Ethics Boards. See attached draft amendment.

Action by the Commission. At this point, staff is requesting the Commission either select language to be included in proposed rules or hold the draft rules for further discussion and revision. Commission action on specific language could be determined at a future meeting.

Attachments:

- Draft Amendments A and B to WAC 390-17-100
- Draft X and Y of New WAC 390-17-150
- Draft Amendments to WAC 390-16-234
- Draft Amendments to WAC 390-17-200
- Draft Amendments to WAC 390-17-030